S.B.CIVIL WRIT PETITION NO. 1784/2006

Sadik Mohd Vs. District Magistrate, Sirohi & Ors.

DATE OF ORDER :: 26.09.2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. K.K. Shah, for the petitioner/s.
Mr. Jagdish Vyas, for the respondents No.2 and 3.
Mr. B.L. Tiwari, Dy. Govt. Advocate.

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By this petition for writ validity correctness and propriety of the judgment dated 9.3.2006 passed by the District Magistrate, Sirohi is questioned whereby an application preferred under Section 14 of the Securitization & Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 was accepted. The contention of learned counsel for the petitioner is that due to certain unavoidable circumstances the petitioner failed to deposit equal monthly installments as per loan agreement but the petitioner was always ready and willing to enter into One Time Settlement.

On the other hand the respondent-bank urged that whatever action taken by the bank that is in accordance with the agreement arrived between the parties as per the Act of 2002, as such, no interference is warranted.

During the course of the arguments learned counsel for the parties agreed that ultimately the prime consideration is to satisfy financial liability regarding the loan advanced to the petitioner. Learned counsel for the petitioner submits that in equitable jurisdiction this Court may direct the petitioner to deposit a reasonable amount with a direction to bank for re-scheduling the mode of payment for the amount advanced. Learned counsel for the respondent is also not having objection for that.

In the totality of circumstances I consider it appropriate to dispose of this petition for writ with a direction to the petitioner to deposit a sum of Rs.2 lacs on or before 31.10.2007. On deposition of such amount the bank shall reschedule the remaining amount for getting the loan advanced satisfied within appropriate time but that must not be less than one year. While rescheduling the respondent-bank shall not determine the amount aforesaid with penal interest w.e.f. 1.4.2006. In the event the petitioner fails to deposit a sum of Rs.2 lacs on or before 31.10.2007 it shall be open for the respondent-bank to proceed against the petitioner as per the order impugned dated 9.3.2006 passed by the Collector, Sirohi.

J/g (GOVIND MATHUR),J.